THE TRAVANCORE LOCAL AUTHORITIES LOANS BILL

MR. N. RAMAKRISHNA PILLAI: Sir, I beg to present the report of the Select Committee on the Travancore Local Authorities Loans Bill and move that the Bill as reported by the Select Committee be taken into consideration.

MR. S. NARAYANA IYER: I second it.

Clauses 1 and 2.

The question that clauses 1 and 2 stand part of the Bill was put and carried.

The clauses were added to the Bill.

Clause 3.

MR. P. S. NATARAJA PILLAI: Sir I move that in clause 3, sub clause (1) (v) after the word "borrowed" add the words "in accordance with law". The section as it now stands reads thus:—

"A local authority may, subject to the prescribed conditions, borrow from Our Government or with the previous sanction of Our Government from any other person on the security of its funds or any portion thereof for any of the following purposes, "Sub clause (1) (v)' the repayment of money previously borrowed". According to my amendment sub section (1) (v) will read "the repayment of money previously borrowed in accordance with law". A local authority may borrow money for the repayment of a loan previously borrowed. We are now enacting a law to codify or regularise the borrowing powers of Local Authorities. "Local Authority" is defined in the Bill as follows:—Local Authority means any person legally entitled to the control or management of any local, village or Municipal Fund——". So it is a non-official body functioning and administering funds. If they borrow money it cannot be without the sanction of the Government and must be in accordance with law also. The amendment limits its right to borrow money to repay previous loans taken only in accordance with law. That is, their borrowing powers are limited to the extent that they can borrow only for the repayment of money previously borrowed in accordance with the law. Further when the money has been once borrowed, Government, on the application of the creditor, can attach the funds of the Local authority, realise the money and repay it. When that authority is sought to be taken by the Government, it is the duty of the Government to provide a provision by which the actions of the Local Authorities must be curtailed within the limits of law. With these words I move my amendment.

MR. K. K. CHELLAPPAN PILLAI: Sir, I rise to support the contention of Mr. Nataraja Pillai. The reasons adduced are easily understandable and stand self-explained. We cannot invest a Local Authority to borrow money for the illegal purposes or any thing not in accordance with strict law. Just as in the case of Mithakshara Family, certainly it must be one which is borrowed in strict accordance with the law. It is money which the people the poor tax payers, will have to repay and therefore all the stringency must accompany such a borrowing. Hence I support the amendment of Mr. Nataraja Pillai.

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MR. N. RAMAKRISHNA PILLAI: Sir, I oppose the amendment. The expression was omitted because there was no pre-existing law like that. This is the first time that an enactment like this is sought to be introduced. The question may arise as to whether a loan not raised in accordance with law should be repaid or not. Suppose a District Municipality happened to raise a loan. Is it proper to say that the loan should not be repaid because it was not raised in accordance with law? It will be a strange rule of public morality to deny the repayment of such loans. That is the reason why those words were not incorporated in the sub-clause.

MR. K. K. CHELLAPPAN PILLAI: Has it come to the notice of Government any borrowings by any Municipality that is not in strict accordance with law?

MR. N. RAMAKRISHNA PILLAI: I cannot say that.

Another fact which I have to bring to the notice of the honourable members is that sufficient safeguards have been provided in sub-clause (1) of clause 3 against reckless borrowings by Municipalities. For instance sub-clause (1) says "A Local Authority may, subject to the prescribed conditions, borrow from Our Government or with the previous sanction of Our Government from any other person." Again in sub-clause (3) they will find that no loan can be raised except for a purpose sanctioned by law. To say that another safeguard should be imposed is quite unreasonable. Suppose the loan was raised for a proper and legitimate purpose. It will be unjust to say that the loan should not be repaid merely because there was not such law for raising the loan. So the amendment cannot be accepted. I therefore oppose the amendment.

MR. P. S. NATARAJA PILLAI: With due deference to what the Legal Reinembrancer said I am at a loss to know how when a Municipality borrows money for a legitimate purpose it can become illegal. My proposition is to make borrowing in accordance with law, that is previous loan must be one borrowed in accordance with law.

As for the other points which he point out that the District Municipalities have already borrowed money, I would draw the attention of the House to sub-clause 2 of clause 5. The remedy mentioned in sub-section (1) cl. 5 will be "available for the recovery of any money lent by Our Government to any local authority before the commencement of this Act and also for the recovery of the interest and costs due in respect thereof". I know there are certain difficulties. I have heard that Government have advanced some money to certain Municipalities and that they want to realise them. That is perfectly correct. If the loan is for repaying a previous loan that has already been advanced, there is sufficient safeguard for it in sub-clause (2) of clause 4. The present amendment will not affect those loans. It limits the right to borrow. It seeks to prevent borrowing not in accordance with law. Why should you deny the right to the futurity to prevent borrowing against the provisions of law?

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